

3680. Misbranding of "Gray's Glycerine Tonic Compound." U. S. v. 12 Cases, More or Less, of "Gray's Glycerine Tonic Compound." Consent decree of condemnation and forfeiture. Product ordered released on bond. (F. & D. No. 5831. I. S. No. 9590-h. S. No. E-80.)

On August 5, 1914, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 12 cases, each containing one dozen bottles of "Gray's Glycerine Tonic Compound," remaining unsold in the original unbroken packages at Newark, N. J., alleging that the product had been shipped on or about June 17, 1914, and transported from the State of New York into the State of New Jersey, and charging misbranding in violation of the Food and Drugs Act, as amended. The shipping containers were labeled: "Gray's Glycerine Tonic Comp. One doz. The Purdue Frederick Co., New York. Formula Dr. John P. Gray. Cent. R. R. N. J. C. B. Smith and Company, Newark N. J." The bottles and wrappers enclosing the same were labeled: "Gray's Glycerine Tonic Comp. Formula Dr. John P. Gray. Contains 11 per cent of alcohol. Guaranteed by the Purdue Frederick Co., under the Food and Drugs Act June 30, 1906. No. 578. This preparation is a combination of glycerine, sherry wine, gentian, taraxacum and phosphoric acid with carminatives. It is especially efficient in diseases of the chest and throat and in cases where cod liver oil is not tolerated. In malnutrition, stomachic derangements, anaemia, nervous prostration, melancholia, catarrhal conditions, and in fact wherever a general tonic is indicated its beneficial effects are noticed almost immediately. It has been tested by prominent physicians in hundreds of cases with unvarying good results. Doses—adults: two teaspoonfuls to a tablespoonful in a little water before meals (or after meals when preferred), coughs, colds, bronchitis: teaspoonful every two hours clear. Children: one half to one teaspoonful. Prepared only by the Purdue Frederick Co., New York. Price one dollar. The Purdue Frederick Co. New York. P. F. Co. Contains 16 fluid oz." On bottle, label, and carton, the following appeared: "It is especially efficient in diseases of the chest and throat and in cases where cod liver oil is not tolerated. In anaemia, melancholia, its beneficial effects are noticed almost immediately." Accompanying each bottle was a circular reading as follows: "In all depressed and exhausted conditions of the system, occurring either independently or as a consequence of disease of the lungs, kidneys, liver, stomach or nervous system, there is serious interference with the patient's processes of nutrition; that is, the digestive powers are so enfeebled that food is not properly digested and assimilated—hence loss of flesh and strength is an inevitable result. Gray's Glycerine Tonic Comp. should be taken in these cases, because by virtue of the selective restorative influence of its ingredients upon the stomach all the functions of this organ are reestablished; appetite is created, digestive powers are restored, and assimilation of food—to replace waste of flesh and strength—is assured.

"It is, therefore, an effective, reliable tonic in nervous exhaustion, general debility, impoverished conditions of the blood and nervous system, Bright's disease, diabetes, diseases of the liver, disorders of the urinary organs, etc.

"In tuberculosis of the lungs (consumption) Gray's Glycerine Tonic Comp. is one of the best remedies. It is recommended by physicians as far superior to cod liver oil, which is irritating to the stomach and too heavy for the feeble digestive organs to assimilate. It always agrees with the stomach and enables the patient to eat, digest and assimilate food; it causes an increase in flesh and strength.

"Gray's Glycerine Tonic Comp. has proved of exceptional remedial value in the following conditions:

"1. It is an unexcelled restorative in that very common class of cases in which there is no positive organic disease, but the patient complains that he 'does not feel well' or 'is out of sorts.' There is loss of appetite and ability to digest food, more or less headache, depression of spirits, inability to sleep, and a general loss of flesh and strength. In these cases, Gray's Glycerine Tonic Comp. speedily restores normal health.

"2. Affections of the respiratory organs associated with cough, expectoration, pain and sense of oppression in the chest. In bronchitis, laryngitis and tuberculosis of the lungs, this tonic relieves excessive dryness of the throat and air passages, allays cough, promotes expectoration of mucous and assists in maintaining or restoring the patient's general health. In ordinary colds and coughs, its good effects are immediately noticed; it is superior to the ordinary cough syrups, all of which are irritating to the stomach and of questionable value. In whooping cough, it reduces the frequency and severity of the fits of coughing and cuts short the course of the disease. It is unequalled as a tonic for the vocal organs. It 'clears the throat' and renders the voice clear and resonant. It is endorsed and used by leading singers and speakers.

"3. Dyspepsia manifested by loss of appetite, inability to digest food, uneasiness and distress after eating, nausea, belching, water-brash, heart-burn, vomiting, etc.; it promptly relieves these symptoms and effects a complete cure.

"4. In nervous exhaustion, neurasthenia and nervousness consequent upon overwork, excesses of any kind, excitement, grief, etc., this tonic quickly allays irritability of the nervous system, insures healthy sleep, engenders appetite and restores tone to the nervous system.

"6. In general debility and nervousness consequent upon diseases of the female reproductive organs, this tonic is of marked value.

"7. In marasmus and malnutrition of children, this tonic constructs flesh and increases strength."

It was alleged in the libel that the product was misbranded within the meaning of the act aforesaid, in that—

(1) The statements on the labels of the bottles and the wrappers enclosing the same, and the statements in the circular accompanying each bottle, as above set forth, were false, fraudulent and misleading.

(2) The statement and design of the labels upon the bottles and the wrappers thereof, and in the circular accompanying each bottle [inasmuch as the article] did not have the curative and therapeutic effect claimed [and they] were therefore false and fraudulent.

On October 19, 1914, C. B. Smith & Co., claimant, Newark, N. J., having consented to a decree, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product should be delivered to the said claimant upon payment of the cost of the proceedings and the giving of a bond in the sum of \$250, in conformity with section 10 of the act.

D. F. HOUSTON, *Secretary of Agriculture.*

WASHINGTON, D. C., *March 26, 1915.*